

Freedom of Speech As a Pillar of Equality in Indonesia in The Context of Constitutional Law

Yovan Iristian

Faculty of Law Dr. Soetomo, Surabaya, Indonesia

yovan_iristian@yahoo.com

Article Information	Abstract
<p>E-ISSN : 3026-6874 Vol: 2 No:2 Februari 2024 Halaman: 84-101</p> <p>Keywords: <i>Freedom of Expression, Equality, Constitutional Law</i></p>	<p><i>The important role of freedom of expression as a basis for equality, especially within the framework of constitutional law, is very important in Indonesia. This research uses normative juridical qualitative methods to obtain a comprehensive understanding of the legal aspects that regulate freedom of expression in the country. Recognized as an essential human right, freedom of expression is explicitly protected by the 1945 Constitution of the Republic of Indonesia. The focus of this research is to examine the legal norms governing freedom of expression, which include provisions such as Article 28E paragraph (3) and Article 19 of the Constitution 1945, as well as other statutory regulations. The research results show that freedom of expression is recognized as an inalienable right by the state and is one of the foundations for the realization of a just and democratic society. Although freedom of expression is guaranteed by the constitution, this research also highlights the obstacles and challenges in its implementation. In Indonesia, challenges arise in navigating diverse interpretations of freedom of expression, with concerns about potential exploitation by entities harming public interest. Striking a balance between freedom of expression and societal stability/security is deemed crucial. The research aims to better understand the complexity of freedom of expression within the country's constitutional law and its role in promoting equality. This research aims to find useful insights for creating better policies. These policies should strike a good balance between individual freedom and public interest, ultimately fostering a fair and democratic society.</i></p>

Abstrak

Peran penting kebebasan berekspresi sebagai landasan kesetaraan, khususnya dalam kerangka hukum tata negara, sangat penting di Indonesia. Penelitian ini menggunakan metode kualitatif yuridis normatif untuk memperoleh pemahaman yang komprehensif tentang aspek hukum yang mengatur kebebasan berekspresi di negara ini. Diakui sebagai hak asasi manusia yang esensial, kebebasan berekspresi secara eksplisit dilindungi oleh Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Fokus penelitian ini adalah mengkaji norma-norma hukum yang mengatur kebebasan berekspresi, yang mencakup ketentuan seperti Pasal 28E ayat (3) dan Pasal 19 UUD 1945, serta peraturan perundang-undangan lainnya. Hasil penelitian menunjukkan bahwa kebebasan berekspresi diakui sebagai hak yang tidak dapat dicabut oleh negara dan merupakan salah satu fondasi bagi terwujudnya masyarakat yang adil dan demokratis. Meskipun kebebasan berekspresi dijamin oleh konstitusi, studi ini juga menyoroti hambatan dan tantangan dalam implementasinya. Di Indonesia, tantangan muncul dalam menavigasi interpretasi yang berbeda tentang kebebasan berekspresi, dengan kekhawatiran tentang potensi eksploitasi oleh pihak-pihak yang merugikan kepentingan publik. Keseimbangan antara kebebasan berekspresi dan stabilitas/keamanan masyarakat dianggap penting. Penelitian ini bertujuan untuk lebih memahami kompleksitas kebebasan berekspresi dalam hukum tata negara dan perannya dalam mempromosikan kesetaraan. Penelitian ini bertujuan untuk menemukan wawasan yang berguna untuk menciptakan kebijakan yang lebih baik. Kebijakan-kebijakan ini harus mencapai keseimbangan yang baik antara kebebasan individu dan kepentingan publik, yang pada akhirnya akan menciptakan masyarakat yang adil dan demokratis.

Kata Kunci : Kebebasan Berekspresi, Kesetaraan, Hukum Tata Negara

INTRODUCTION

Indonesia, a vast archipelago located in Southeast Asia, has placed the principle of freedom of expression as a cornerstone in its constitutional framework. This commitment to fundamental rights is expressly articulated in Article 28 E (3) of the 1945 Constitution, which affirms the importance of this right for the survival of a strong democracy and the protection of individual freedoms. Constitutional

guarantees include freedom of expression, thought and aspiration, affirming the fundamental role of freedom of expression in shaping Indonesia's democratic ethos. Nevertheless, the practical realization of freedom of expression in Indonesia still faces challenges, which are reflected in restrictions on political expression and restrictions on media freedom. Despite constitutional guarantees, there have been instances where the limits of free speech have been tested, prompting a different exploration of the balance between protecting individual rights and addressing broader societal concerns.

The development of democracy in Indonesia reflects ongoing efforts to align the ideals of free speech with the need for social cohesion. The mandate of the constitution is accompanied by an emphasis on the responsibility to exercise this right within ethical and legal limits. This dual commitment recognizes the diverse nature of Indonesian society, where cultural, religious, and ethnic diversity adds complexity to the interpretation and implementation of freedom of expression. In addressing this complexity, Indonesia continues to refine its approach to freedom of expression, seeking to create an environment where the expression of diverse perspectives is not only protected but also contributes to the enrichment of public discourse. As the nation advances on its democratic path, the complex interplay between individual freedom and societal considerations remains a central theme in shaping the contours of freedom of expression in Indonesia.

For example, in Indonesia, the constitutional commitment to freedom of expression is clearly seen in the 1945 Constitution and Law No. 39 of 1999. Although there is a legal basis, there is still no specific law that regulates this human right. Instead, various aspects of freedom of expression are regulated through separate laws. For example, certain laws such as Law No. 19 of 2016, Law No. 40 of 1999, Law No. 9 of 1998, and Law No. 17 of 2003 regulate various aspects of freedom, including electronic information, press, opinion, and freedom of opinion. organization, respectively. Although this law provides a regulatory framework, the absence of comprehensive legislation that specifically addresses freedom of expression creates gaps in the legal landscape. As a result, the formulation of freedom of expression in the 1945 Constitution is less regulated further. This legal gap raises questions about the comprehensive protection and governance of these important rights in Indonesia. The absence of specific laws directly regulating freedom of expression leaves room for interpretation and may have an impact on effectively safeguarding this important aspect of democratic expression (Sayuti & Yanti, 2023).

The absence of specific regulations or a comprehensive legal framework on freedom of expression has given rise to a situation characterized by a lack of clear directives and detailed references. Therefore, handling violations of the law related to the practice of freedom of expression is a significant and urgent concern, marked by a significant increase in cases. Based on data obtained by the National Commission on Human Rights (Komnas HAM), there were 44 reports of violations between 2020 and 2021, all of which fall into the category of legal violations of the right to freedom of expression. These offences occurred in a variety of contexts, with 52% occurring in digital spaces, 19% in journalistic works, 17% in public spaces, 10% in scholarly discussions, and even 2% while testifying in court. This set of scenarios underscores the complexity of the challenges surrounding free speech, requiring different and diverse approaches to effectively address these violations. The need for a clear legal framework is becoming increasingly clear as violations continue to occur in various fields, emphasizing the importance of addressing this issue comprehensively (Sayuti & Yanti, 2023).

Many articles in the legal framework are identified as barriers, thus creating barriers for individuals to express their opinions openly. The threat of punishment commonly associated with these provisions serves as a deterrent effect, generating fear and hindering the exercise of freedom of expression. Essentially, these legal constraints undermine the essence of efforts to create a climate conducive to freedom of expression. The implications of these restrictive articles are more than mere obstacles; This contributes to a wider erosion of the law's effectiveness in protecting and advancing the fundamental right to self-expression. As a result, the legal system fails to fulfill its expected role as a facilitator of freedom of expression, thus sacrificing important elements in a democratic society. Overcoming and reevaluating these barriers becomes essential to restore the balance between the legal

framework and the fundamental right to voice one's point of view without fear of reprisal. Some articles that are considered to be obstacles to freedom of expression include Article 207 of the Criminal Code which states: "Whoever intentionally in public, orally or in writing, insults a ruler or public body in Indonesia, shall be punished with: a maximum imprisonment of one year and six months or a fine of not more than four thousand five hundred rupiah." This resulted in the results of other survey institutions on October 25, 2020, the results of the Indonesian Political Indicators Survey were announced, reflecting the sentiments of 1,200 individuals from various regions in Indonesia. Among the main findings, 36% of respondents conveyed the perception that democratic countries in Indonesia are in decline. Furthermore, the survey revealed that 47.7% of participants stated that some agreed with the notion that citizens are increasingly worried about expressing their opinions. This indicates a growing sense of doubt among the public, which may indicate an obstacle to freedom of expression. In addition, 57.7% of respondents voiced concern over the arbitrary actions felt by the authorities. In particular, they feel that law enforcement is increasingly arresting citizens who hold political views different from those supported by government bodies. This aspect shows a growing anxiety about justice and impartiality of the apparatus in dealing with individuals who have different political views (Octora, 2022).

Then in Article 27 paragraph (3) of the ITE Law which states that "Everyone intentionally and without rights disseminates and/or transmits and/or provides Electronic Information and/or Electronic Documents containing insults and/or defamation". This has resulted in Indonesia still grappling with repressive legal provisions that contradict the essence of protecting civil liberties, especially within the framework of a modern democratic climate. One example is the Electronic Information and Transactions Law (ITE), which, although revised, still has vague articles that create a climate of fear among the public. The legal provisions in the ITE Law not only do not uphold civil liberties, but also seem to target groups that are ideally protected by the state. In particular, Article 27 paragraph (3) regarding the regulation of insults does not consider the necessary limitations in defamation as set forth in the Criminal Code. In order to create a truly democratic environment, it is important to critically review and refine this legal framework to ensure it is in line with civil liberties principles and contributes to a climate that fosters freedom of expression and individual rights (Octora, 2022).

From the point of criminal law, the determination of an act as a criminal offense requires careful consideration of the principle of legality. Within the framework of the tradition of the Civil Law System, four main aspects of the principle of legality are strictly adhered to: legislation (statutory), retroactive, *lex certa*, and analogy. In the realm of laws and regulations, the basis of crime lies in the harmony of an act with established laws and regulations. That is, in order for an act to be considered criminal, it must be clearly defined and prohibited by existing laws. The retroactive principle is also another important element, which emphasizes that a criminal act must be tried according to the law in force at the time it occurred. In addition, the concept of *lex certa* or legal certainty also has significance. This underscores the precise and unambiguous legal requirement to avoid arbitrary interpretations. This principle becomes relevant, especially when struggling with articles of the ITE Law that may be multiinterpreted. In tracing the complexities arising from the interpretation of specific provisions in the ITE Law, an important aspect that needs to be discussed in depth is the application of the *lex certa* principle. Ensuring legal certainty is crucial, especially when dealing with aspects of law that are prone to differing understandings, thus contributing to a stronger and fairer legal framework (Octora, 2022).

In Article 28 paragraph (2) which states: Everyone intentionally and without rights disseminates information that aims to cause harm to hatred or hostility of individuals against ethnicity, religion, taste, and between groups. From these articles, the concept that needs further study is the concept of freedom of opinion, criticism, and insult. Basically, "criticizing" is a different activity from "insulting" activities, but many cases occur in Indonesia. Where the opinion expressed with the intention to be used as criticism is considered to meet the element of insult. Such an interpretation creates legal uncertainty. One incident that has received great attention lately is the content creation done by Lina Mukherje. As reported on the Kompas website on September 20, 2023, In the video, Lina

Mukherje can be seen eating a dish containing pork. What adds a controversial element to the content is that he begins his sentence with the phrase "Bismillah", which has a deep meaning in the Islamic faith. It is important to know that in Islam, the consumption of pork and its processed products is strictly forbidden (haram). The act, which was reported to the police on March 15, 2023, is considered a violation of Islamic dietary law, causing serious repercussions for Lina Mukherje. The judge overseeing the case found him guilty of blasphemy. As a consequence, he was sentenced to two years in prison for his actions, reflecting how serious the handling of the incident was in the legal system. The clash between Mukherje's content and religious beliefs sparked a broader conversation about the responsibilities and potential consequences associated with creating content in the context of religious sensitivities (Compass, 2023b).

In Indonesia, a series of events have occurred and caused a sense of reluctance of individuals to voice their opinions openly or freely expressed. Widespread fear of punitive action has cast a shadow over freedom of expression. This public hesitancy prompted researchers to investigate the complexities of freedom of expression in the Indonesian context. Experts are particularly interested in investigating the dynamics of freedom of expression through the lens of constitutional law. This interest arises from the recognition that freedom of expression serves as a foundation for promoting societal equality. Understanding the legal aspects of this fundamental right is important in uncovering the complexities surrounding barriers to expression and their implications for the broader idea of justice in Indonesian society. When researchers delve into this subject, they aim to shed light on the interrelationship between constitutional principles and practice in safeguarding the right to expression without fear of reprisal.

LITERATURE REVIEW

FREEDOM OF EXPRESSION

The Center for Law and Democracy International Media Support states freedom of expression, which is recognized as a human right, is guaranteed under international law and enshrined in every human rights law worldwide. This right is not only a legal provision but also essential to human development, dignity, personal fulfillment, and the ceaseless search for truth. Moreover, it is a fundamental prerequisite for the functioning of democracy and the establishment of good governance. The importance of freedom of expression is evident in its role as a catalyst for open and free debate among competing political parties. This provides a platform for communities to raise their concerns with authorities, thus encouraging participatory and responsive communities. In addition, this freedom ensures that new policies and laws are closely monitored, thus contributing to transparent and accountable governance structures. In the field of quality government, the impact of freedom of expression is enormous. It acts as a check against authority, increasing competence and honesty. It also empowers individuals to voice concerns and engage in constructive debate on government actions. In essence, the spirit of democratic values is threatened when the free flow of information and ideas is impeded, emphasizing the importance of the role of freedom of expression in upholding the foundation of democracy (Centre for Law and Democracy & International Media Support, 2014).

The right to freedom of expression is itself a fundamental principle recognized in international and regional human rights treaties. One important document that upholds this right is the Universal Declaration of Human Rights (UDHR), adopted unanimously by the UN General Assembly in 1948. Although the UDHR is not formally binding on the state, guarantees of freedom of expression are widely considered to have been obtained. The force of law as customary international law. Furthermore, the concept of freedom of expression is interwoven into various human rights treaties, both globally and regionally. These agreements collectively underscore the importance of providing freedom for individuals to express their thoughts and opinions without unwarranted restrictions. Recognition of this right serves as a foundation for developing an open society that values a diversity of perspectives.

In particular, the UDHR stands out as an important declaration in the protection of freedom of expression. Its global adoption signifies a shared commitment to upholding this fundamental right.

Although the UDHR may not have formal legal ties to states, its principles have become embedded in the international legal landscape, thus influencing customary international law and shaping expectations around the protection of freedom of expression around the world. One of the international laws governing this is Article 19 of the Universal Declaration of Human Rights, which is the cornerstone that affirms the intrinsic right of every individual to freedom of opinion and expression. At its core, this article champions individual autonomy, giving them the freedom to formulate and enforce their personal beliefs without outside interference. This preserves space for diverse perspectives to coexist, fostering a society that values intellectual pluralism.

What's more, this important right transcends personal beliefs. It champions the active effort, acceptance, and dissemination of information and ideas through any medium. By doing this, they uphold the principle that knowledge should flow freely, transcending boundaries and barriers. This unfettered exchange of ideas not only enriches individual experiences but also contributes to the collective wisdom of humanity. In essence, Article 19 is a beacon that guides society towards openness and inclusivity. It envisions a world where individuals can express themselves without fear, where information is a shared resource, and where the free flow of ideas fosters a vibrant and well-rounded global community (Centre for Law and Democracy & International Media Support, 2014).

When referring to the legal precedent set by the European Court of Human Rights, it is firmly established that "freedom of expression is a fundamental cornerstone in a democratic society and an essential prerequisite for the progress of society and the self-fulfillment of the individual." Therefore, this freedom, often referred to as the "oxygen of democracy", has a very important meaning, especially when applied through new media platforms in developing democracies. It serves as a catalyst for the advancement and development of individual potential. Recognition of freedom of expression as an important cornerstone underscores its important role in fostering a healthy and vibrant democratic society (Benedek & Kettemann, 2013). Freedom of expression is a fundamental pillar within the framework of a democratic society, serving as an important catalyst for its development and individual self-realization of its members. This essential freedom is more than just the acceptance of information or points of view that are considered harmless or pleasant. Its meaning is especially noticeable in the role of journalists, who act as channels for the dissemination of information and ideas on matters of public interest and interest. Closely related to this is the right of people to receive information, thus forming symbiotic relationships that promote the ethos of democracy (Cha, 2023).

However, it is important to know that freedom of expression is not absolute and immune to restrictions. Although restrictions may be necessary, they must comply with a fundamental criterion, namely the need for legislation. This recognition underscores the balance needed to ensure that restrictions on freedom of expression can be justified, guided by a transparent and democratically established legal framework. Therefore, despite potential restrictions, the protection of these fundamental freedoms still depends on the observance of established legal principles. In essence, the relationship between freedom of expression, journalistic responsibility, and legislation is a dynamic interaction that is important to maintain the democratic order in society. Different understandings and careful calibration of these elements contribute to creating an environment in which expression flourishes without compromising the collective well-being and values of democratic systems (Cha, 2023).

Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) underlines that the exercise of the rights detailed in paragraph 2 of this article has different duties and responsibilities. Therefore, these rights may be subject to certain restrictions, provided that such restrictions are legally prescribed and deemed necessary. The first category of permissible restrictions outlined in Article 19(3) relates to the protection of the rights or reputation of others. In other words, restrictions on the exercise of these rights can be applied to prevent undue harm to one's standing or character. The second category focuses on broader societal considerations, emphasizing the importance of protecting national security, public order, or the well-being of public health and morals. Restrictions in this framework are justified where legally required and considered essential to the well-being and stability of society as a

whole. In summary, Article 19(3) of the ICCPR recognizes that although individuals have certain rights, they are not absolute and may be subject to restrictions specifically prescribed by law and necessary to protect the rights and reputation of others, as well as in the interests of the wider community such as national security and public welfare (Centre for Law and Democracy & International Media Support, 2014).

In Indonesia, freedom of expression is protected by legal regulations that seek to uphold people's right to express their opinions. These regulations serve as a framework to ensure that individuals can express their thoughts openly and contribute to democratic discourse. By providing a structured approach to freedom of expression, the law aims to balance the exercise of this fundamental right with the interests of the wider community. Within Indonesia's legal framework, the regulation of freedom of expression is a reflection of the country's commitment to creating an environment where diverse viewpoints can coexist. The aim is not to curb individual expression, but to establish guidelines that encourage responsible and constructive dialogue. This approach is essential to maintaining a healthy democratic society where citizens can actively engage in discussion without jeopardizing collective well-being. In essence, Indonesia's legal oversight of freedom of expression aims to strike a balance between giving individuals the freedom to express themselves and ensuring that such expression is aligned with the principles of responsible communication in the broader context of society. This regulatory framework underscores the country's commitment to fostering dynamic and inclusive public discourse while recognizing the need for certain restrictions to prevent harm or violation of the rights of others.

These rules are regulated in Article 28E paragraph (3), and Article 28F of the 1945 Constitution. Article 28E(3) emphasizes the fundamental rights of every individual to freedom of association, assembly, and expression. This provision underscores the importance of giving individuals the freedom to get along with others, assemble peacefully, and express their thoughts freely. Similarly, Article 28F of the 1945 Constitution explores the right of everyone to communicate and access information for their personal development and social environment. This article recognizes the importance of facilitating the exchange of ideas and information, fostering individual growth and societal progress. It further expressly states that individuals have the right to seek, obtain, possess, store, process, and convey information through all available channels. This comprehensive affirmation guarantees a broad and inclusive approach to the dissemination and utilization of information in various forms and media (Amnesty, 2021).

Ensuring the responsible exercise of freedom of expression includes not only the enactment of laws protecting this fundamental right, but also the application of regulations that limit its potential for misuse. One of these rules is contained in Article 27 paragraph (1) of the ITE Law which regulates the dissemination, transmission, or accessibility of Electronic Information and/or Electronic Documents containing content that violates decency intentionally and without permission. Violation of these rules may result in legal consequences. In addition, Law 12/2005 in Article 19 paragraph (3) also restricts freedom of opinion. These restrictions are guided by considerations of the rights of others and aim to protect national security or public order. It underscores the need to strike a balance between the exercise of individual freedoms and the interests of wider society, ensuring that the boundaries of freedom of expression are responsibly defended. In essence, this legal provision underscores the dual nature of laws governing freedom of expression—protecting the right itself while setting limits to prevent abuse or violation of the rights and interests of others and the wider community (Amnesty, 2021; Rizky Pratama Putra Karo Karo, 2023).

Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) underlines that the exercise of the rights detailed in paragraph 2 of this article has different duties and responsibilities. Therefore, these rights may be subject to certain restrictions, provided that such restrictions are legally prescribed and deemed necessary. The first category of permissible restrictions outlined in Article 19(3) relates to the protection of the rights or reputation of others. In other words, restrictions on the exercise of these rights can be applied to prevent undue harm to one's standing or character. The second

category focuses on broader societal considerations, emphasizing the importance of protecting national security, public order, or the well-being of public health and morals. Restrictions in this framework are justified where legally required and considered essential to the well-being and stability of society as a whole. In summary, Article 19(3) of the ICCPR recognizes that although individuals have certain rights, they are not absolute and may be subject to restrictions specifically prescribed by law and necessary to protect the rights and reputation of others, as well as in the interests of the wider community such as national security and public welfare (Centre for Law and Democracy & International Media Support, 2014).

In Indonesia, freedom of expression is protected by legal regulations that seek to uphold people's right to express their opinions. These regulations serve as a framework to ensure that individuals can express their thoughts openly and contribute to democratic discourse. By providing a structured approach to freedom of expression, the law aims to balance the exercise of this fundamental right with the interests of the wider community. Within Indonesia's legal framework, the regulation of freedom of expression is a reflection of the country's commitment to creating an environment where diverse viewpoints can coexist. The aim is not to curb individual expression, but to establish guidelines that encourage responsible and constructive dialogue. This approach is essential to maintaining a healthy democratic society where citizens can actively engage in discussion without jeopardizing collective well-being. In essence, Indonesia's legal oversight of freedom of expression aims to strike a balance between giving individuals the freedom to express themselves and ensuring that such expression is aligned with the principles of responsible communication in the broader context of society. This regulatory framework underscores the country's commitment to fostering dynamic and inclusive public discourse while recognizing the need for certain restrictions to prevent harm or violation of the rights of others.

These rules are regulated in Article 28E paragraph (3), and Article 28F of the 1945 Constitution. Article 28E(3) emphasizes the fundamental rights of every individual to freedom of association, assembly, and expression. This provision underscores the importance of giving individuals the freedom to get along with others, assemble peacefully, and express their thoughts freely. Similarly, Article 28F of the 1945 Constitution explores the right of everyone to communicate and access information for their personal development and social environment. This article recognizes the importance of facilitating the exchange of ideas and information, fostering individual growth and societal progress. It further expressly states that individuals have the right to seek, obtain, possess, store, process, and convey information through all available channels. This comprehensive affirmation guarantees a broad and inclusive approach to the dissemination and utilization of information in various forms and media (Amnesty, 2021).

Ensuring the responsible exercise of freedom of expression includes not only the enactment of laws protecting this fundamental right, but also the application of regulations that limit its potential for misuse. One of these rules is contained in Article 27 paragraph (1) of the ITE Law which regulates the dissemination, transmission, or accessibility of Electronic Information and/or Electronic Documents containing content that violates decency intentionally and without permission. Violation of these rules may result in legal consequences. In addition, Law 12/2005 in Article 19 paragraph (3) also restricts freedom of opinion. These restrictions are guided by considerations of the rights of others and aim to protect national security or public order. It underscores the need to strike a balance between the exercise of individual freedoms and the interests of wider society, ensuring that the boundaries of freedom of expression are responsibly defended. In essence, this legal provision underscores the dual nature of laws governing freedom of expression—protecting the right itself while setting limits to prevent abuse or violation of the rights and interests of others and the wider community (Amnesty, 2021; Rizky Pratama Putra Karo Karo, 2023).

EQUALITY

In line with the basic principles of the Indonesian state, especially the fifth precept of Pancasila which advocates social justice for all Indonesians, this underscores the importance of equal legal

treatment for diverse communities. Especially for national countries characterized by large populations such as Indonesia, who come from various ethnic groups, races, social classes, and religious affiliations. Within these diverse communities, each individual exhibits a set of lifestyle patterns, viewpoints, and customs, which contribute to the unique and diverse nature of each country. This kind of interaction plays an important role in shaping the cultural fabric of national societies, fostering a blend of traditions, perspectives, and experiences that contribute to the diversity and richness of the community as a whole. The coexistence of different ethnic and racial groups within national borders underscores the importance of recognizing and appreciating the cultural plurality that determines a nation's collective identity (Prabawa et al., 2022).

In essence, Indonesia stands as a state of law, which includes important attributes such as Equality Before The Law and a strong commitment to recognize human rights (grondrechten). Operating within the framework of the rule of law, Indonesia upholds the principle of Equality Before The Law, which ensures that legal treatment remains impartial at all levels of society. This commitment reflects the broader context of the nation that adheres to the principle of social justice embedded in the ideals of Pancasila. Furthermore, the concept of the rule of law as explained by A.V. Dicey in Kholifah (2018), consists of three important characteristics called the Rule of Law. These characteristics include the Rule of Law which affirms that no person or entity is above the law; Equality Before the Law, emphasizing the uniformity of application of legal principles to all citizens; and Due Process of Law, which underscores the importance of fair and equitable legal procedures. By realizing these principles, Indonesia strives to develop a legal system based on equality, justice, and human rights protection (Kholifah, 2018).

The principle of equality before the law became a cornerstone in the modern legal system, emphasizing the fundamental idea that all individuals should be considered equal within the legal framework. This principle is not just a procedural formality but has an important meaning in upholding fairness and justice. Embedded in the broader doctrine of the Rule of Law, equality before the law ensures that no one is given preferential treatment or discriminated against based on factors such as social status, wealth, or other arbitrary distinctions. This serves as a protection against the arbitrary use of power and reinforces the idea that the law applies equally to all people, regardless of their background or standing in society. The State of Law, with its principles of transparency, accountability, and adherence to due process, transcends national borders. This universal concept has gained attention even in developing countries such as Indonesia, describing its adaptability and relevance in diverse socio-political contexts. Embracing equality before the law contributes to the establishment of a legal system that is not only strong but also reflects the principles of justice and equal protection for all individuals (Walukow, 2013).

The principle of equality before the law is a basic concept that advocates equal legal rights for all individuals, without exception. This establishes the fundamental idea that everyone, regardless of background or characteristic, should be treated impartially in the legal system. This principle serves as the cornerstone of a just and just society, promoting the idea that justice should be blind to individual differences. In addition, equality before the law can be used as a standard to fight for the rights of marginalized or minority groups. By upholding this principle, society can work to eliminate discrimination and ensure that legal protection is provided equally to all members of society, promoting inclusivity and social justice. However, it is important to be aware of the challenges that may arise in the application of this principle. Resource gaps, which include differences in power, capital, and information, often play an important role. In practice, this imbalance can lead to the exploitation of the principle by those with authority or financial influence. In cases like these, equality before the law can be manipulated and used as a shield to protect assets and maintain existing power structures, instead of fulfilling the intended goal of ensuring equal treatment for all. Acknowledging and overcoming these challenges is essential to truly uphold the spirit of equality before the law (Walukow, 2013).

CONSTITUTIONAL LAW

According to Black's Law Dictionary, the constitution is defined as a fundamental and organic law that shapes the nature, character, organizational structure, and governance of a nation or state. It serves as the cornerstone of the legal framework, which describes the core principles upon which an entity is built. This basic document not only outlines the structure of government but also provides insight into the sovereign powers that are in the hands of the state. In addition, this document describes the methods and criteria used in the exercise of such authority. The constitution, in its comprehensive scope, is more than just a legal document; It embodies the collective values, aspirations, and principles that guide society. It serves as a compass, directs the course of government and reflects the common vision of citizens. In determining the concept and character of a nation or state, the constitution plays an important role by summarizing the essence of its identity and articulating the basic principles underlying its existence (Junaidi, 2017).

In addition, the constitution serves as a protection against arbitrary power and establishes a framework for protecting individual rights and freedoms. This law not only defines the structure of government but also establishes limits on its authority, ensuring a balance between government and the rights of the governed person. In this way, the constitution becomes a living document that adapts to the evolving needs and values of society, providing a stable foundation for the rule of law and the protection of fundamental rights.

In its alternative explanation, the term "constitution" has its roots in the French word "constituer", which means act of formation. When using the term constitutional, it specifically denotes the founding of a state or the organizational structure that formally declares a state. In contrast, the term "basic law" is a translation of the Dutch term "grondwet", where "wet" in Indonesian means law, and "grond" means soil or foundation. Notably, English-speaking countries use the term "constitution", which is synonymous with the term "constitution" in Indonesia. The practical interpretation of the term "constitution" goes beyond the boundaries of understanding related to "basic law". In the field of political science, constitution has a broader meaning, encapsulating the entirety of the rules—whether explicitly written or implicitly understood—that authoritatively govern the functioning of government in the public context of a country. This comprehensive set of principles serves as a binding framework that determines how a government operates and behaves (Junaidi, 2017).

According to C. F. Strong's view in Junaidi (2017), the Constitution is basically a summary of basic principles that serve as a foundation for regulating government power, protecting the rights of the governed people, and establishing a complicated relationship between the two entities. It serves as a guiding framework in establishing a country's governance, by providing a comprehensive set of rules and regulations that define the parameters within which its government and citizens operate. In essence, the constitution outlines the division and limitation of governmental authority, ensuring a balance that prevents an entity from exercising excessive power. The law describes the fundamental rights and freedoms of individuals, and sets limits that governments must meet to protect the freedoms of their citizens. In addition, the constitution also describes the interaction between government and society, and establishes a framework for cooperation and accountability. By summarizing these principles, the constitution becomes a dynamic document that reflects the values, aspirations, and social contract of a society. It serves as an important instrument in shaping the legal and political landscape, embodying the collective will of society while providing a solid structure for state governance (Junaidi, 2017).

Judging from its function, the Constitution is divided into 2, namely Horizontal and Vertical. The horizontal function of the Constitution is The allocation of state authority is a multifaceted process that occurs at two important levels, namely the central government and local government. This division of power is integral to the effective functioning of the state apparatus, which ensures that the government is distributed and decentralized to achieve optimal efficiency. At the central government level, the distribution of power occurs between various state institutions. These complex allocations are designed to create a balance of authority, preventing one entity from becoming overly dominant. The aim is to

foster collaboration and cooperation among state institutions, creating a system where power is shared fairly to foster strong and effective governance structures.

At the same time, at the local government level, there is a parallel division of authority. This ensures that governance is not only concentrated at the central level but extends to local and community-based entities. Local governments play an important role in addressing the unique needs and challenges of their respective communities, as well as contributing to a more comprehensive and responsive system of government. In essence, the division of state power between central and regional governments, as well as equity between state institutions, is the foundation of a balanced and functional governance framework. This approach seeks to harmonize various aspects of governance, ultimately serving the interests of society at both the macro and micro levels (Kogoya, 2015).

The constitutional vertical functions operate on the basis of the allocation of power at various levels. This distribution is especially noticeable in the territorial division of power, also known as territorial division of power. A clear distinction in constitutional functions arises when comparing unitary states, federal states, and confederations. This variety of ways of drafting the constitution contributes to the realization of various constitutional functions at different levels of government. In examining the function of this vertical, it is clear that unitary states, federal states, and confederacies show different characteristics in their distribution of power. This comparison highlights fundamental differences in constitutional frameworks and their impact on governance. The territorial division of powers plays an important role in shaping the dynamics of authority in the government structure, ultimately affecting the constitutional functions observed at each level. In essence, the vertical function of the constitution indicates a multifaceted interaction in the distribution of power, with territorial considerations and constitutional design as key factors. Understanding these dynamics provides insight into the diverse constitutional functions that arise at different levels of government (Kogoya, 2015).

INDONESIA IN THE CONSTITUTION

The Constitution of the Republic of Indonesia, commonly called the Constitution, was officially enacted by the PPKI on August 18, 1945. This significant development came just a day after the historic Proclamation of Independence of the Republic of Indonesia. It is noteworthy that although the 1945 Constitution was promulgated shortly after the drafting of the 1945 Draft Law, its origins predate the official proclamation of Indonesian independence. As the most important legal document in Indonesia, the 1945 Constitution reflects fundamental values that promote democracy and a strong legal foundation. This constitutional framework lays the foundation for the government of the country. This underscores the commitment to democratic principles and the establishment of a legal system that is essential to the functioning of the Indonesian state. The values contained in the 1945 Constitution, especially democratic values and a strong legal foundation, have enormous implications. The implementation of this constitution is very important in ensuring the establishment of a democratic system. This, in turn, plays an important role in convincing Indonesian citizens that their human rights are not only recognized but also guaranteed within the framework of the country's governance (Kogoya, 2015).

In his insightful work, "Procedures and Systems for Constitutional Change", Sri Soemantri M. examines various classifications of the Indonesian Constitution. His incisive analysis places the Indonesian Constitution in the realm of rigid constitutions when juxtaposed with the usual categories of constitutions. This characterization comes from its written embodiment, articulated in a document (commonly called a written or documentary constitution). In addition, it gained prominence as the highest constitution, reflecting the unitary constitutional framework. Notably, it also covers the complexity of a mixed system of government, which includes a constitution with a mixed executive structure (Dr.H. Indra Muchlis Adnan. SH.MH.MM.Ph.D;; 2017).

Sri Soemantri in his analysis outlined the classification of the 1945 Constitution, a framework before the next amendment. This constitution, due to its rigid nature, imposes special prerequisites for making amendments, as articulated in Article 37. This constitution clearly falls within the realm of the

written constitution, as evidenced by its documented form. The explanatory section of the 1945 Constitution expressly establishes it as a written constitution, emphasizing the nature of its codification. In addition, it bears the highest constitutional status, occupying top positions in the hierarchical structure of legislation and sources of law. In this framework, the 1945 Constitution exists not just as a set of rules, but as the basis of the legal system. Its significance is further affirmed by its classification as a high-level constitution, which emphasizes its importance. Based on the explanation in the explanatory section, the constitution functions as a basic law (*droit Constitutionnel*), which serves as the source from which other laws and regulations derive their authority and legitimacy. In essence, the 1945 Constitution is a pillar that provides a solid foundation and framework for the building of state law (Dr.H. Indra Muchlis Adnan. SH.MH.MM.Ph.D., 2017).

METHODS

TYPES OF RESEARCH

In this study, researchers used qualitative research methodology with a normative juridical approach. Qualitative methodology is a research approach oriented to natural phenomena or observable phenomena distinguished by their fundamental and grounded application, as well as embodying a naturalistic or organic perspective. This method is commonly known as Naturalistic Inquiry, Field Study, or observational study (Coal, 2017). The essence of this approach lies in its emphasis on practical application in the real world, providing a different understanding of the subject matter. Qualitative research takes center stage in this methodology, prioritizing the exploration of processes and the interpretation of meaning or perception. This type of research is designed to uncover a wide array of qualitative information, using comprehensive and meaningful descriptions and analyses. It is important to remember that qualitative research does not ignore quantitative information, but rather combines numerical data to enrich the overall findings. In the examination of each subject observed various elements such as tendencies, thought patterns, deviations, and behavioral displays. This approach reflects the meticulous research done in genetic case studies, thus allowing for a holistic understanding of the subject. By integrating qualitative and quantitative dimensions, this research method aims to provide a comprehensive and in-depth exploration of natural phenomena or symptoms (Coal, 2017).

RESEARCH APPROACH

The normative juridical approach is an investigative approach based on legal principles, utilizing a legal framework to dissect and understand legal issues. In essence, this view views law as a system of norms that are constructed and intricately related to the application of legal principles in a particular case or research context. This research method utilizes primary and secondary legal data sources to gather comprehensive information. Using descriptive-analytical analysis, normative juridical research seeks to explain and elaborate the findings of previous research, especially those relating to central issues in the legal realm. The systematic study of legal norms and their application is at the core of normative juridical research. This book acknowledges the complex relationship between legal theory and its practical implementation, thus contributing to a different understanding of the complexities inherent in legal issues. Through the utilization of primary and secondary legal sources, coupled with a thorough descriptive-analytical approach, this methodology aims to provide valuable insights into the diverse nature of legal issues and their implications (Belanusa et al., 2020).

DATA SOURCES

The research conducted in this study relies heavily on secondary data as its primary source of information. Secondary data in this context are obtained from official documents and related books relating to the object of study. In addition, it also includes research results presented in the form of reports, such as theses and laws and regulations. The secondary data used in this study are multifaceted, consisting of primary legal material, secondary legal material, and tertiary legal material. This comprehensive approach allows for a thorough examination of the subject matter, utilizing a variety of

sources to increase the depth and breadth of research. By combining information from various documents and official publications, the study aims to provide a thorough and comprehensive analysis of the selected topic. In summary, the research methodology used in this study underscores the importance of secondary data, which includes a wide range of sources to ensure a robust and comprehensive exploration of the subject. This approach increases the reliability and richness of research findings, contributing to a more diverse understanding of the object of study.

Primary legal materials are legal materials that are used as the main reference because they are sourced from laws that discuss freedom of expression. For example, Article 28 E (3) of the 1945 Constitution, Law No. 39 of 1999, Law No. 19 of 2016, Law No. 40 of 1999, Law No. 9 of 1998, and Law No. 17 of 2003 regulate various aspects of freedom, including electronic information, press, opinion, and freedom of opinion, etc. Other legal materials also use Article 27 paragraph (1) of the ITE Law and Law 12/2005 in Article 19 paragraph (3) which explains the restrictions on freedom of expression.

Secondary legal material has an important role in the legal context, where its function is not only as a support for primary legal material, but also as a guide or explanation to the main legal material. In this study, secondary legal materials can involve the translation of legal documents, references from law books, as well as scientific works produced by legal experts who have links to the topic being discussed. By providing additional perspectives, secondary legal materials help elaborate and clarify primary legal concepts, enriching our understanding of the legal issue being analyzed. Therefore, the existence of secondary legal material becomes an inseparable aspect in supporting and broadening horizons related to the main legal material.

Tertiary legal materials are a category of legal materials that serve as a source of guidance and explanation of primary and secondary legal materials. These materials involve a variety of references such as legal dictionaries, language dictionaries, papers, newspapers, and encyclopedias. In this modern era, the internet has also become one of the main sources of tertiary legal materials that provide wide access to legal information. With the development of technology, online sources, legal databases, and other online publications have also become an integral part of tertiary legal materials. All of these sources play an important role in providing in-depth context, definition, and interpretation of the legal aspects underlying primary and secondary legal material. Thus, tertiary legal materials not only complement, but also enrich understanding of relevant legal regulations and legal cases.

DATA COLLECTION METHODS

In this study, the data collection method focused on news stories that discussed cases related to violations of human rights and freedom of expression. The information contained in these news stories is the main basis for understanding the legal context involving aspects of human rights and freedom of expression. Involving a variety of cases opens up opportunities to analyse events involving human rights violations, as well as the expansion of freedom of expression in a variety of contexts and situations. In-depth gathering and understanding of relevant news is key to building a solid legal foundation in detailing the impact and implications of these cases on the broader legal framework. Thus, this tertiary law material becomes a valuable source of information to explore in-depth understanding related to human rights and freedom of expression issues within the contemporary legal framework.

DATA ANALYSIS METHODOS

After successfully collecting all relevant legal data and materials for this research, the next step is to conduct a descriptive-analytical analysis of the legal material. This approach requires an in-depth explanation and comprehensive description related to the results of research related to the core of the problem raised. This analysis process involves solving every aspect of the legal material, dissecting the subject matter, and highlighting the relationships and implications that may arise. In order to provide a more thorough understanding, the explanations resulting from the analysis are then systematically compiled. After that, the information is processed into sharp and comprehensive conclusions. The conclusion will later be summarized and presented in the form of a deductive paragraph, providing a

comprehensive overview of the research findings and strengthening the arguments underlying the conclusion. Thus, this analytical approach not only includes the process of deciphering the data, but also ensures that the information produced makes a valuable contribution to the understanding and resolution of the subject matter under study.

RESULTS AND DISCUSSION

RESULT

Freedom of expression is considered a basic right granted to every citizen, and it is guaranteed by the laws of the country. However, it is important to understand that such freedoms still need to be limited so as not to harm the rights of others. This restriction should not only be a legal aspect, but also reflect moral and ethical values in communicating. In practice, there is a reality of inequality in society related to freedom of expression. This condition can create significant obstacles in achieving equality in accordance with the principle of Equality Before The Law. The existence of differences in treatment or access to expression platforms can create social inequalities that affect a number of elements in society, such as education, employment, and political participation. To address these inequalities, there needs to be a concerted effort on both the part of the government and society to ensure that freedom of expression is not only a formal right, but also accessible and enjoyed fairly by all levels of society. In this way, we can achieve the desired goal of equality, making the principle of Equality Before The Law not just a concept, but a reality perceived by every individual in society.

The basic principle of equality before the law which is the foundation of a democratic society is contained in Article 27 Paragraph (1) of the 1945 Constitution. This constitutional provision underscores the idea that all citizens have equal standing in law and government, and are bound strictly by the obligation to uphold both without exception. It is a fundamental commitment to ensuring fairness, fairness and protection of individual rights within the legal framework. Moreover, the actualization of the principle of equality before the law is closely related to the nature of the judicial system. Article 24 Paragraph (1) of the 1945 Constitution specifically emphasizes the importance of an independent and impartial judicial role. This implies that the judicial power represents an autonomous authority that has the responsibility to administer justice, not only as a tool of law enforcement but also as a guardian of justice itself. The requirement for the judiciary to operate with freedom and impartiality underscores its important role in creating a society that protects the rights and standing of all citizens, and contributes to the stability and integrity of the legal system and governance as a whole. In essence, these constitutional provisions collectively form the foundation for a legal and judicial framework that seeks equality, justice, and the protection of citizens' rights, thus strengthening the democratic principles on which the state is based (NADIA, 2018).

The principle of Equality Before The Law operates within a broad scope of universally accepted legal norms, covering aspects of legal unity in general and in particular. This unity manifests itself as a cohesive force among various social dimensions, thus extending its influence to the economic and social realms. The comprehensive nature of legal unity implies that the principle of equality is closely intertwined with other dimensions of society, thus creating unity. However, the seemingly exclusive nature of equality in the legal realm gives a clear signal. These signals suggest that social and economic inequality can be an obstacle to the achievement of true equality. The principle of equality before the law, although a basic concept, seems to face challenges when faced with the complex interaction between social and economic factors. One important factor contributing to varying understandings of equality is the difference in treatment in different regions. It transcends the field of law and extends into various social and economic fields. Interpretations of "equality" itself vary, contributing to a complex landscape in which the principle of equality before the law erodes amid the dynamic forces of society and the economy. The evolving nature of these dynamics poses complexities that require ongoing consideration and testing of the broader implications for the principle of equality (Walukow, 2013).

Some time ago, we witnessed an incident involving a content creator named Bima Yudho Saputro. He created content in the form of videos uploaded on his TikTok account, expressing criticism of the

performance of the Lampung local government. In the video, Bima expressed his view that the development process in the region was slow and various other problems were hampering the progress of the area. The video achieved a high level of virality, was watched by millions of people, and received a rousing response from the public. In fact, the video became a trending topic on Twitter, showing the extent of its impact on online conversations (Compass, 2023a).

However, this popularity brought serious consequences for Bima. He was reported to the Lampung Regional Police for alleged violations of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). The report highlights the use of words deemed to contain hate speech and insults against ethnic, religious, racial, and intergroup (SARA) elements. Not only that, the police report also alluded to allegations of intimidation carried out by related parties against Bima's family. This incident demonstrates the complexity and far-reaching impact of digital expression in the public sphere, and how criticism of government can trigger controversial and potentially detrimental responses for the individuals who deliver it (Compass, 2023a).

Blasphemy cases that may be quite crowded cases are used to limit people in expressing their opinions. Some time ago there was a very crowded blasphemy case, namely the case of Basuki Tjahaja Purnama or Ahok. Ahok's case received a mixed response from the public, but perhaps the most attention was the demonstration of various religious organizations held at Monas, demanding that Ahok be imprisoned. The case occurred because Ahok said "don't want to be deceived" while mentioning one of the letters in the holy book of the Qur'an. Ahok was reported to the police on October 7, 2016 by Habib Novel Chaidir Hasan and charged with PP no. 1 of 1965 Article 156a concerning blasphemy which reads "Sentenced to imprisonment for a maximum of five years whoever intentionally in public expresses feelings or commits acts: a. which is essentially hostile, abusive or blasphemous towards a religion adopted in Indonesia; b. with the intention that people do not profess any religion, which is jointed with the One and Only Godhead" (Ministry of Religious Affairs, 2014). Ahok himself has been convicted and served 2 years in prison (Coverage6, 2023).

In a recent blasphemy case, DPD RI member Arya Wedakarna was reported to the police on suspicion of blasphemy. Arya is said to have mentioned the wearing of the hijab which led to allegedly uttering SARA speech. Head of Legal Affairs of MUI Bali Agus Samijaya reported Arya Wedakarna after the results of an agreement between his party and 25 Islamic community organizations (CSOs) in Bali. They reported to the police because they considered Arya's previous apology to be insincere. In his report, Arya allegedly violated article 45A paragraph 2 of RI Law Number 19 concerning amendments to RI Law number 11 of 2008 concerning information and electronic transactions and/or article 156 of the Criminal Code and article 156a paragraph 1 of the Criminal Code concerning the occurrence of SARA and blasphemy crimes (CNN, 2024).

A lecturer at the State University of Jakarta (UNJ), Robertus Robet, was named as a suspect and charged with articles that insult the ruler or legal entity in Indonesia. Robert is considered to have committed insults for criticizing the dual function of ABRI during the New Order era. In his criticism, Robert sang a song that was often used by students when demonstrating at that time. However, despite being named a suspect, Robertus was not arrested. The article used to prosecute Robert is article 207 of the Criminal Code which reads "Whoever deliberately in public with oral or written insults to a ruler or legal entity in Indonesia, shall be threatened with imprisonment for a maximum of one year and six months or a fine of not more than four thousand five hundred rupiah (Kontan, 2019).

DISCUSSION

CRITICIZED ARTICLES

In order to enforce this particular law, there are three important elements that need to be carefully considered: legal certainty, expediency, and fairness. The mutual influence between law and justice is indispensable, because it is the core of the legal system. However, if we delve into the legal landscape in Indonesia, we will find a lot of nuances of positivistic law, a legacy inherited by the Dutch

colonialists who still clung to the framework of "civil law". In this context, society finds itself confined in a rigid formalistic legal structure, where law is essentially the embodiment of what is expressly stated in the laws and regulations promulgated by authorized figures. This rigid adherence to formal legal thinking is highly influential, having a profound impact not only on lawmaking but also on law enforcement by legal authorities, including police, judges, and prosecutors. The consequences of such legal dogma are enormous and pervasive throughout the legal system. The influence of formal legal thought translates into legal frameworks designed to reflect the perspectives and ideologies of those in power. This, in turn, raises concerns about impartiality and fairness in the legal system. The essence of justice can be compromised when legal structures become products of ruling elites, potentially undermining the principle of equality (Sukadi, 2011).

Moreover, this paradigm has real consequences for the day-to-day operations of law enforcement officials. Police, judges, prosecutors, and other legal entities operate within the confines of a formalistic legal system. That is, their actions and decisions are not only guided by the content of the law but are also strongly influenced by the legal philosophy embedded in the system. As a result, there is a risk of bias and inequality in the application of the law. In view of these intrigues, researchers and legal experts have examined certain articles within this legal framework. These articles, which were considered to interfere with the principle of equality, became the focal point of criticism. This oversight is not just an academic effort but a fundamental effort to address systemic problems embedded in the legal order of the country. This underscores the importance of reevaluating the legal paradigm to ensure that the principles of justice and equality are not only enshrined in legislation but are also truly upheld in the day-to-day operations of the legal system (Sukadi, 2011).

There are several articles that deserve to be criticized because they are considered to be detrimental to freedom of expression in Indonesia. Among them are Article 207 of the Criminal Code, which reads "Whoever deliberately in public, verbally or in writing insults a power that exists in the State of Indonesia or a general assembly that is there, shall be punished with imprisonment for a maximum of one year and six months or a fine of up to Rp. 4,500" and Article 208 paragraph (1) of the Criminal Code which reads "Whoever prepares, displays or pastes writings or pictures that contain insults to a general assembly that is there, with the intention that the insulting content is known to the public or better known to the public, punishable by imprisonment for a maximum of four months or a fine of up to Rp. 4,500". These articles are considered to lack legal certainty because there is no firm limit on what is meant by "insult". The vagueness surrounding the term raises concerns about potential subjective interpretations, which could undermine the reliability of the legal framework. Consequently, these articles risk inhibiting open discourse and limiting the public's ability to criticize government performance. In addition, the absence of clear boundaries in these provisions creates an environment that can encourage arbitrary law enforcement. Without clear parameters, the interpretation of violations may be left to the discretion of the authorities, raising concerns regarding fair and consistent application of the law. Lack of accuracy in defining the scope of "insult" can result in adverse effects on public criticism, limit the effectiveness of accountability mechanisms and hinder the democratic exchange of ideas. (Ellandra et al., 2022).

In Law Number 11 of 2008, especially concerning Information and Electronic Transactions (ITE Law), a certain article has caused various interpretations that have caused a series of adverse effects. First, this is manifested in the form of restrictions on freedom of expression, especially in expressing opinions and providing constructive criticism. The implementation of the ITE Law led to the arrest of several people, causing a sense of shock in the community. As a result, some people have become cautious in expression, while others choose to remain silent, thus hindering the development of democracy demanded by the ever-evolving culture in cyberspace. Second, the discretionary authority exercised by law enforcement in determining someone guilty under the ITE Law has given rise to an element of arbitrariness. The lack of accuracy in identifying certain elements of the article that were violated contributed to a sense of injustice.

Third, the ITE Law has been manipulated as a tool for certain groups to seek retribution and, in certain cases, as a weapon to ensnare political opponents, thus weakening the purpose of the law. The fourth result is the absence of legal certainty. Decisions regarding multi-interpretation articles vary widely and may even contradict each other. Notably, cases like Ahmad Dhani's resulted in prosecution under the ITE Law, while in other cases, such as Prita's, the defendants were acquitted. The fifth impact is the emergence of unrest and discord among the community who are ready to report incidents to law enforcement. This exacerbates the conflict between the authorities and the public, thus eroding trust in the legal system. Finally, the sixth result is the inefficiencies stemming from the redundancy of the ITE Law. Some articles that duplicate the provisions contained in the Criminal Code, such as Article 27 paragraph (3) which regulates insults and defamation, already have appropriate provisions in Articles 310 and 311 of the Criminal Code (Mainake & Nola, 2020).

The ongoing debate over the use of blasphemy law provisions, especially Article 156 of the Criminal Code and Article 156a paragraph 1 concerning events related to SARA (Ethnic, Religious, Racial, and Intergroup) crimes, has not only sparked discussions in the country. but it has also drawn international criticism. The implications of this legal action are very significant, even attracting the attention of other countries. The European Union (EU) delegation to Indonesia has weighed in on the issue, and urged the Indonesian government and its citizens to uphold the tradition of tolerance and pluralism that the country has long known on the global scene. The EU stressed the importance of maintaining these values, which have won admiration around the world. Furthermore, the EU has consistently stressed its stance that laws criminalizing blasphemy, if applied selectively and discriminatory, could pose a serious threat to fundamental freedoms, particularly those related to the expression of religious opinions and beliefs. The EU's concern lies in the potential obstruction of freedom of expression and religion, if these legal acts are enforced in a way that violates those fundamental rights (Kompas, 2017).

CONCLUSION

Based on the discussion outlined above, it becomes clear that a large number of articles still contain controversial elements, which have the potential to harm freedom of expression and encourage real disparities between society and government. The existence of such articles poses a major obstacle in achieving true equality, and addressing this gap becomes a necessity to foster a more harmonious relationship between society and governing bodies. In addition, the impact of inequality caused by articles that are vulnerable to abuse has a broad impact, not only causing divisions in society. Such articles have the potential to lead to discrimination, exacerbating inequality and hindering the unity that is essential for a united country. In this context, it becomes important to scrutinize and re-evaluate the content of such articles to ensure that they contribute positively to the harmony of society rather than perpetuating disputes. By doing this, we can aspire to build a more inclusive and united nation and uphold the principles of equality and freedom of expression.

Researchers emphasize the need for improvements to articles that are prone to discrimination. Addressing and revising these articles is essential to promote more inclusive and equitable representation. By actively working to eliminate discriminatory content, we can contribute to a more just and respectful discourse. In addition, there is hope for the government to play an important role in promoting equality. This includes not only the revision of discriminatory laws but also the implementation of new laws that ensure justice for all members of Indonesian society. The emphasis is on creating an environment in which every individual is treated fairly, without any distinction or bias. By doing this, governments can contribute significantly to building a just and inclusive society.

The government should have a leader's soul. The capacity of leaders to make the right decisions not only emphasizes their competence but also shapes the direction of work of all levels of society to develop this country. Furthermore, a truly effective leader recognizes the importance of involving the community in the decision-making process, as well as fostering a culture of mutual respect in the community (Harijanti et al., 2021).

REFERENCES

- Amnesty. (2021). *Freedom of expression*. <https://www.amnesty.id/kebebasan-berekspresi/>
- Coal, J. (2017). Qualitative Research Paradigm and Philosophy of Science in Counseling. *Journal of Focus Counseling*, 3(2), 95. <https://doi.org/10.26638/jfk.387.2099>
- Belanusa, Z. S., Kartikasari, R., & Cahyadini, A. (2020). The urgency of implementing good corporate governance in regional-owned enterprises in oil and gas management through participating interest ownership. *Journal of Jurisprudence*, 10(1), 1–14. <https://doi.org/10.23917/jurisprudence.v10i1.9974>
- Benedek, W., & Kettemann, M. C. (2013). Freedom of Expression. *Media Asia*, 23(3), 138–145. <https://doi.org/10.1080/01296612.1996.11726503>
- Centre for Law and Democracy, & International Media Support. (2014). *Briefing Note Series: Freedom of Expression*.
- Cha, K. (2023). *Freedom of speech in international regulations in the face of digital media development*.
- CNN. (2024). *MUI Bali Officially Police Arya Wedakarna for Alleged Blasphemy*. <https://www.cnnindonesia.com/nasional/20240112193958-12-1048866/mui-bali-resmi-polisikan-arya-wedakarna-atas-dugaan-penistaan-agama>
- Department of Religious Affairs. (2014). Presidential Regulation of the Republic of Indonesia Number 1/PNPS of 1965. *Paper Knowledge . Toward a Media History of Documents*, 2(1), 1–7.
- Dr.H. Indra Muchlis Adnan. SH.MH.MM.Ph.D; (2017). *Constitutional Law in Indonesia*.
- Ellandra, A. Z., Faqih, M., & Azizi, K. (2022). Status quo regulation of the Presidential Contempt Article as a restriction on constitutional rights related to freedom of expression in Indonesia and its potential future regulation: A case study of Presidential Contempt on Social Media (Ruslan Buton Case). *Journal of Studia Legalia*, 3(01), 1–12. <https://doi.org/10.61084/jsl.v3i01.20>
- Harijanti, P., Melinda, T., & Krisprimandoyo, D. A. (2021). The Effect of Leadership, Motivation, and Organizational Culture on the Performance of Employees of PT X. *KnE Social Sciences*, 2021, 655–662. <https://doi.org/10.18502/kss.v5i5.8849>
- Junaidi, M. (2017). CONSTITUTIONAL LAW, VIEWS AND IDEAS OF MODERNIZATION OF THE RULE OF LAW. In *PT RajaGrafindo Persada* (Vol. 2).
- Kholifah, N. (2018). Equality of human rights before the law within the framework of the welfare state. *They are*, 2, 27–28. [http://download.garuda.kemdikbud.go.id/article.php?article=536002%5C&val=5918%5C&title=Kesetaraan Human Rights Before the Law within the Framework of the Welfare State](http://download.garuda.kemdikbud.go.id/article.php?article=536002%5C&val=5918%5C&title=Kesetaraan%20Human%20Rights%20Before%20the%20Law%20within%20the%20Framework%20of%20the%20Welfare%20State)
- Kogoya, W. (2015). Constitutional Theory and Science. In *Paper Knowledge . Toward a Media History of Documents* (Vol. 3, April Issue).
- Compass. (2017). *World Body Criticism of Blasphemy Law, This is the Response of the National Police*. [https://nasional.kompas.com/read/2017/05/12/17225441/kritik.badan.dunia.soal.pasal.penodaan.agama.a.ini.tanggapan.polri](https://nasional.kompas.com/read/2017/05/12/17225441/kritik.badan.dunia.soal.pasal.penodaan.agama.ini.tanggapan.polri)
- Compass. (2023a). *Bima Case and Dynamics of Freedom of Opinion on Social Media*. <https://www.kompas.id/baca/polhuk/2023/04/18/kasus-bima-dan-dinamika-kebebasan-berpendapat-di-media-sosial>
- Compass. (2023b). *The Journey of Lina Mukherjee Case, Creating Pork Eating Content to Sentenced to 2 Years in Prison*. <https://regional.kompas.com/read/2023/09/20/154500178/perjalanan-kasus-lina-mukherjee-buat-konten-makan-babi-hingga-divonis-2?page=all#>
- Cash. (2019). *Robertus Robet was charged with insulting the ruler or legal entity in Indonesia*. <https://nasional.kontan.co.id/news/robertus-robet-dijerat-pasal-penghinaan-penguasa-atau-badan->

hukum-di-indonesia

- Coverage6. (2023). *6 Blasphemy Cases That Shocked the Country Before Panji Gumilang, Ahok's Drama Was Most Highlighted*. <https://www.liputan6.com/surabaya/read/5359786/6-kasus-kasus-penistaan-agama-yang-menghebohkan-tanah-air-sebelum-panji-gumilang-drama-ahok-paling-disorot?page=3>
- Mainake, Y., & Nola, L. F. (2020). The impact of multi-interpretation articles in the Law on Electronic Information and Transactions. *Journal of Short Info*, *XII*, 1–6.
- NADIA, F. (2018). *ANALYSIS OF THE IMPLEMENTATION OF THE PRINCIPLE OF EQUALITY BEFORE THE LAW IN LAW ENFORCEMENT (Case Study of Hate Speech in the Jurisdiction of the Tanjung Karang District Court)*.
- Octora, R. (2022). Criminalization of the Action of Submitting Criticism to The Government Based on The Electronic Information and Transaction Law in Indonesia, And Protection of The Right to Freedom of Speech in A Democratic Country. *International Journal of Social Science and Human Research*, *05(05)*, 1975–1983. <https://doi.org/10.47191/ijsshr/v5-i5-46>
- Prabawa, E., Widjayanto, J., Ali, Y., Saragih, H., Sarjito, A., & Sufa, S. A. (2022). Intercultural Communication Strategy of the Indonesian National Army (TNI) in Papua. *Journal of Communication Research*, *5(1)*, 113–126. <https://doi.org/10.38194/jurkom.v5i1.479>
- Rizky Pratama Putra Karo Karo. (2023). Hate Speech: Deviations from the ITE Law, Freedom of Opinion and Dignified Justice Values. *Journal of Lemhannas RI*, *10(4)*, 52–65. <https://doi.org/10.55960/jlri.v10i4.370>
- Sayuti, S., & Yanti, I. (2023). Freedom of Speech Without a Direction: Criticism of Promotion of Freedom of Speech in Indonesia. *Al-Risalah: Forum for Legal and Social Studies*, *23(1)*, 121–144. <https://doi.org/10.30631/alrisalah.v23i1.1389>
- Sukadi, I. (2011). The Powerless of Law in the Process of Law Enforcement in Indonesia. *Treatise of Law*, *7(1)*, 39–53.
- Walukow, J. M. (2013). *THE REALIZATION OF THE PRINCIPLE OF EQUALITY BEFORE THE LAW FOR PRISONERS IN PRISONS IN INDONESIA*. *1(1)*, 163. <https://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/viewFile/1320/1071>